

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

GILBERTO PEREIRA BRITO,
FLORENTIN AVILA LUCAS, and JACKY
CELICOURT, individually and on behalf of
all those similarly situated,

Plaintiffs-Petitioners,

v.

WILLIAM BARR, et al.,

Defendants-Respondents.

Case No. 19-11314-PBS

FILED UNDER SEAL

AFFIDAVIT OF SIDRA VITALE, ESQ.
WITH REGARD TO GILBERTO PEREIRA BRITO

1. I am an immigration attorney and have been practicing immigration law since 2007. My law office is located in Quincy, Massachusetts.
2. I represent Gilberto Pereira Brito in proceedings before the Boston Immigration Court and in other immigration matters. I began working with Mr. Pereira Brito and his family in 2016. This affidavit is being prepared based on my personal knowledge and my work on Mr. Pereira Brito's case, including a review of various documents relating to it. All documents attached as exhibits to this declaration are true and accurate copies.
3. Mr. Pereira Brito was born in Brazil in 1979. *See* Ex. A (passport).
4. Mr. Pereira Brito entered the United States in April 2005 and was apprehended shortly thereafter. He was released on personal recognizance and given a putative Notice to Appear. *See* Ex. B (putative NTA). However, the putative Notice to Appear did not provide him with the date, time, and place of his scheduled hearing, but rather purported to order him to appear at the JFK Federal Building on June 8, 2005, at 1:30 a.m., when the immigration court was not in session and no hearing was scheduled. *See id.* A removal order entered *in absentia*, dated June 9, 2005. *See* Ex. C (June 9, 2005 Order).

5. Mr. Pereira Brito lives in Brockton, Massachusetts, with his wife Darcy and three children, ages 10 years old, 4 years old, and 11 months old. *See Exs. D (marriage certificate), E (birth certificate for [REDACTED] age 10), F (birth certificate for [REDACTED] age 4), G (birth certificate for [REDACTED] age 11 months).* Mr. Pereira Brito's wife and children are all citizens of the United States.
6. Mr. Pereira Brito's wife is disabled and cannot work. *See Ex. H (compiled Social Security Administration and medical documentation), Ex. I (aff't of Darcy Pereira Brito).* Her medical problems include PTSD, panic disorder, and various complications from a prior surgery that make her feel constantly weak and sick. *See Ex. I (aff't of Darcy Pereira Brito).* Mr. Pereira Brito's family depends on him for financial support, and, without him, they are unable to pay their rent and other expenses. *See id.*
7. In 2007, Mr. Pereira Brito was pulled over in Dorchester, Massachusetts, and charged with unlicensed operation of a motor vehicle and operation of a motor vehicle under the influence of alcohol. *See Ex. J (2007 docket).* He was released on personal recognizance at arraignment. *See id.* In August 2008, he admitted sufficient facts, and the case was continued without a finding until July 2009.¹ *See id.*
8. In May 2009, Mr. Pereira Brito was charged in Hingham, Massachusetts, with driving after suspension of his license. *See Ex. K (2009 docket).* He was released on personal recognizance at arraignment. *See id.* Mr. Pereira Brito misunderstood the court's instructions that he was "all set" and was incorrectly under the impression that the case was resolved. *See Ex. L (Pereira Brito aff't).* It appears a default entered in June 2009, although the Commonwealth took no further action. *See Ex. K (2009 docket).* It also appears that this charge triggered a violation of probation notice in the original 2007 case. *See Ex. J (2007 docket).* But the notice was mailed to the wrong address, and Mr. Pereira Brito was not aware of it. *See Exs. M (violation of probation notice sent to "Water Street"), L (Pereira Brito aff't explaining he lived on "W. Water Street" at the relevant time and never received the violation of probation notice).*

¹ My understanding based on a review of police records is that police also initially alleged that a marijuana cigarette was found in the vehicle (which had three passengers when it was pulled over, in addition to Mr. Pereira Brito). However, the possession charge against Mr. Pereira Brito was later dropped at the request of the Commonwealth. *See Ex. J (2007 docket).* It appears that Mr. Pereira Brito was also charged with a civil violation for failure to keep right, but was adjudicated "not responsible." *See id.*

9. Having thoroughly investigated the facts and circumstances of this case, I have determined that Mr. Pereira Brito has not been arrested, and has not been charged with or convicted of any crimes, since May 2009.
10. Prior to being arrested by ICE, Mr. Pereira Brito disclosed his location to the government and began the process to correct his immigration status. In June 2017, I filed a Form I-130 on behalf of Mr. Pereira Brito and his wife, which was approved in 2018. *See Ex. N (I-130 approval notice).* This approval is the first step in a process that would allow Mr. Pereira Brito to become a lawful permanent resident of the United States by virtue of his marriage to Darcy, who is a U.S. citizen.
11. ICE arrested Mr. Pereira Brito at his home on March 3, 2019.
12. After Mr. Pereira Brito was arrested, I filed a motion to reopen his removal proceeding (*i.e.*, to vacate the prior removal order that entered *in absentia* without his knowledge). That motion was granted by the immigration court on or about March 18, 2019, based on “apparent lack of notice” to Mr. Pereira Brito of the prior proceeding. *See Ex. O (March 18, 2019 Order).*
13. In the immigration court, Mr. Pereira Brito intends to apply for relief from removal, including cancellation of removal, a defense to removal that is available to certain individuals who have been in the United States for more than 10 years and have U.S. citizen family members who would suffer an “exceptional and extremely unusual hardship” if the noncitizen were removed.²
14. On April 4, 2019, Mr. Pereira Brito received a bond hearing before an immigration judge in the Boston Immigration Court pursuant to 8 U.S.C. § 1226(a). I represented him at this hearing. The immigration judge required that, in order to be released on bond, Mr. Pereira Brito bear the burden to prove that he is not a danger or flight risk.
15. In connection with that bond hearing, I submitted information including records of Mr. Pereira Brito’s marriage and the birth of his children, Darcy’s affidavit, certain medical and Social Security Administration documentation relating to Darcy’s disability, the form I-130 approval, an application for cancellation of removal, the defective putative NTA from 2005, letters of support from community members, and a photograph of Mr. Pereira Brito’s children. *See Exs. B, D, E, F, G, H, I, N, P, Q, & R.*

² Also, as described above, Mr. Pereira Brito is the beneficiary of an approved I-130, Petition for Alien Relative, filed by his wife. That petition could become the basis for an application for lawful permanent resident status at a future date.

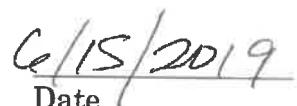
16. At the bond hearing, Mr. Pereira Brito learned that his 2007 and 2009 cases were still open.
17. The immigration judge denied bond. In a subsequent explanatory decision, the immigration judge acknowledged that Mr. Pereira Brito “has been in the United States for over a decade, has a fixed address, and has existing family ties.” *See Ex. S* (bond memorandum). However, the court nevertheless ruled that Mr. Pereira Brito “did not meet his burden to demonstrate that he neither poses a danger to the community nor is a risk of flight,” based on the decade-old cases and his purported failure to demonstrate that “he has a strong case for eligibility for relief from removal.” *See id.*
18. Mr. Pereira Brito appealed the decision denying him release on bond to the BIA on May 3, 2019. *See Ex. T* (notice of appeal). The appeal remains pending.
19. While detained, Mr. Pereira Brito has engaged criminal defense counsel to help him resolve the two old cases. The violation of probation proceeding in the 2007 case has now been dismissed, and the case is therefore resolved. *See Ex. J* (2007 docket). The 2009 case was scheduled for a hearing on June 6, 2019, but Mr. Pereira Brito was not transported from ICE detention to the state court. A new hearing in that case is scheduled for June 17, 2019, at which time it will likely be resolved (assuming Mr. Pereira Brito is transported to court).
20. On May 30, 2019, I filed a motion for a new bond hearing based on a change in circumstances. *See Ex. U* (motion and all exhibits). The changed circumstances included the fact that Mr. Pereira Brito’s 2007 case is now resolved. The changed circumstances also included the fact that [REDACTED]
21. On June 10, 2019, the immigration court denied Mr. Pereira Brito’s motion for a new bond hearing based on changed circumstances. *See Ex. V* (June 10, 2019 Order). In that order, the immigration judge states that Mr. Pereira Brito’s “circumstances have not changed materially since the last bond hearing.” *See id.*
22. Mr. Pereira Brito’s immigration proceedings have been pending since March and will likely continue for some time. His next hearing is currently scheduled for June 28, 2019.

23. Mr. Pereira Brito has been held in immigration detention continuously since March 3, 2019. Without an adequate bond hearing, Mr. Pereira Brito will likely remain detained throughout the pendency of these proceedings. He has already been in jail for more than three months.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Sidra Vitale



Date

Exhibit A

Darcy Pereiron Brito
Agency ID: [REDACTED]

21

Este passaporte deve ser devolto imediatamente
seu em caso de extravio ou roubo.
Ce passeport doit être rendu immédiatement
s'il est perdu ou volé.
Este pasaporte debe ser devuelto inmediatamente
si se pierde o se roba.
This passport must be surrendered
except where the bearer is unable to do so.

PASSAPORTE
PASSPORT

REPÚBLICA FEDERATIVA DO BRASIL
BRASIL
PASSEPORT
DARCY PEREIRA BRITO
GUAERATO

Exhibit B

U. S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No. [REDACTED]
Case No: IGC0504000202
PEM #: 16962687

In the Matter of:

Respondent: Gilberto PEREIRA-Brito

currently residing at:

240 WASHINGTON ST
PROVIDENCE MASSACHUSETTS 02072

(Number, street, city state and ZIP code)

1. You are an arriving alien.
 2. You are an alien present in the United States who has not been admitted or paroled.
 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
 Section 235(b)(1) order was vacated pursuant to: 8 CFR 208.30(l)(2) 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
JK Federal Building 15 New Sudbury Street Room 320 Boston MASSACHUSETTS 02220
(Complete Address of Immigration Court, including Room Number, if any)
on June 8, 2005 at 01:30 a.m. (Date) (Time) to show why you should not be removed from the United States based on the charge(s) set forth above.

DARIN LARSON
Supervisory Border Patrol Agent
(Signature and Title of Issuing Officer)

Date: April 13, 2005

Rio Grande City, Texas
(City and State)

See reverse for important information

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Exhibit C

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203-0002

In the Matter of:
PEREIRA-BRITO, GILBERTO

Case No.: [REDACTED]

RESPONDENT

Docket: BOSTON, MASSACHUSETTS

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

On Jun 8, 2005, at 1:30 P.M., pursuant to proper notice, the above entitled matter was scheduled for a hearing before an Immigration Judge for the purpose of hearing the merits relative to the respondent's request for relief from removal. However,

() the respondent was not present.
() the respondent's representative was present; however, the respondent was not present.
() neither the respondent nor the respondent's representative was present.

Therefore, in the absence of any showing of good cause for the respondent's failure to appear at the hearing concerning the request for relief, I find that the respondent has abandoned any and all claim(s) for relief from removal.

Wherefore, the issue of removability having been resolved, it is HEREBY ORDERED for the reasons set forth in the Immigration and Naturalization Service charging document that the respondent be removed from the United States to BRAZIL.

found & signed
LEONARD I. SHAPIRO
Immigration Judge
Date: Jun 9, 2005

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: [REDACTED] ALIEN () Custodial Officer () Alien's ATT/REP () INS
DATE: 6/13/05 BY: COURT STAFF Reyes
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

Exhibit D

CERTIFICATE OF MARRIAGE

1 Place of Marriage City or Town (Do not enter name of village or section of city or town)	2 Date of Marriage Oct. 20, 2013 (Month) (Day) (Year)			Registered No. 407
3 FULL NAME PARTY A Gilberto Pereira Brito		11 FULL NAME PARTY B Darcy Lynne France		
3A SURNAME AFTER MARRIAGE Pereira Brito		11A SURNAME AFTER MARRIAGE Pereira Brito		
4 DATE OF BIRTH	5 OCCUPATION Remodeler	12 DATE OF BIRTH	13 OCCUPATION At Home	
6 RESIDENCE NO. & ST. CITY Brockton TOWN ST. ZIP CODE 02301	7A WIDOWED OR DIVORCED Divorced	14 RESIDENCE NO. & ST. CITY Brockton TOWN ST. ZIP CODE 02301	15 NUMBER OF MARRIAGES (1st, 2nd, 3rd, etc.) 1st	
8 PLACE -Batinga	Brazil	16 BIRTHPLACE Brockton	15A WIDOWED OR DIVORCED	
(City or town)	(State or country)	(City or town)	(State or country)	
9 NAME OF MOTHER/PARENT		17 NAME OF MOTHER/PARENT		
10 NAME OF FATHER/PARENT		18 NAME OF FATHER/PARENT		
19 THE INTENTION OF MARRIAGE by the above-mentioned persons was duly entered by me in the records of the Community of BROCKTON according to law, this 23rd day of SEPTEMBER 2013				
20 COURT WAIVER Issued September 26 2013 by		Signature of Clerk or Registrar		
AGE ORDER (Month) (Day) (Year)		(City or Town Clerk or Registrar)		
21 Certificate recorded by city or town clerk October 24, 2013 CLERK OR REGISTRAR				
22 PARTY A SEX: <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE		23 PARTY B SEX: <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE		

I certify that I am the City Clerk of Brockton, MA and I have Custody of Records of Births, Marriages and Deaths required by law to be kept in My office, I certify that the above is a true copy from said records.
WITNESS MY HAND AND SEAL OF THE CITY OF BROCKTON THIS 6th DAY OF NOVEMBER 2013

Signature of Clerk
ANTHONY J. ZEOLL, CITY CLERK

FEE \$20.00

17

Exhibit E



Commonwealth of Massachusetts

CERTIFICATE OF BIRTH
 FROM THE RECORDS OF BIRTHS IN THE
TOWN OF WEYMOUTH, MASSACHUSETTS

Date of Birth

Full Name of Child

Sex, and if Twin

Place of Birth

Name of Father

Maiden Name of Mother

Residence of Parents

Occupation of Father

Occupation of Mother

Birthplace of Father

Birthplace of Mother

Date of Record

FEMALE

WEYMOUTH, MA

GILBERTO PEREIRA BRITO

DARCY LYNNE FRANCE

ROCKLAND, MA

IPATINGA MG BRAZIL

STOUGHTON, MA

January 23, 2009

I, the undersigned, hereby certify that I am clerk of the Town of Weymouth; that as such I have custody of the records of births required by law to be kept in my office,

And I do hereby certify that the foregoing is a true copy from the said records.

Witness my hand and seal of said town of Weymouth on this

8th day of January, 2013.

Town Clerk

PLACE
SEAL
HERE

YEAR 2009
 VOL. 2009
 PAGE -
 NUMBER 156

Exhibit F

COPY OF RECORD OF BIRTH

REGISTERED NUMBER: 3624
STATE FILE NUMBER: 071424

CHILD

NAME: [REDACTED]
SEX: FEMALE PLURALITY: SINGLE
DATE OF BIRTH: [REDACTED]
PLACE OF BIRTH: WELMOUTH, MA

MOTHER/PARENT

NAME: DARCY LYNNE PEREIRA BRITO
SURNAME AT BIRTH OR ADOPTION: FRANCE
BIRTHPLACE: STOUGHTON, MA
DATE OF BIRTH: [REDACTED]

FATHER/PARENT

NAME: GILBERTO — PEREIRA BRITO
SURNAME AT BIRTH OR ADOPTION: PEREIRA BRITO
BIRTHPLACE: IPATINGA, MINAS GERAIS, BRAZIL
DATE OF BIRTH: [REDACTED]

AT-BIRTH RESIDENCE: BROCKTON, MA

DATE OF RECORD: DECEMBER 30, 2014

DATE ISSUED: AUGUST 27, 2015

I, the undersigned, hereby certify that I am the Clerk of the City of Brockton; that as such I have custody of the records of birth, marriage, and death required by law to be kept in my office; and I do hereby certify that the above is a true copy from said records, as held in the Commonwealth's central vital records information repository.

Anthony J. Zecoli

Clerk
City of Brockton

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Exhibit G



Commonwealth of Massachusetts
Registry of Vital Records and Statistics
RECORD OF BIRTH

REGISTERED NUMBER: 10050
STATE FILE NUMBER: 034518

CHILD

NAME: [REDACTED]
SEX: MALE
DATE OF BIRTH: [REDACTED]
PLACE OF BIRTH: BOSTON, MA

PLURALITY: SINGLE
TIME: [REDACTED]

MOTHER/PARENT

NAME: DARCY LYNNE PEREIRA BRITO
SURNAME AT BIRTH OR ADOPTION: FRANCE
BIRTHPLACE: STOUGHTON, MA
DATE OF BIRTH: [REDACTED]

FATHER/PARENT

NAME: GILBERTO — PEREIRA BRITO
SURNAME AT BIRTH OR ADOPTION: PEREIRA BRITO
BIRTHPLACE: IPATINGA MG BRAZ
DATE OF BIRTH: [REDACTED]

AT-BIRTH RESIDENCE: BROCKTON, MA

DATE OF RECORD: JULY 12, 2018

DATE ISSUED: OCTOBER 03, 2018

I, the undersigned, hereby certify that I am the Clerk of the City of Brockton; that as such I have custody of the records of birth, marriage, and death required by law to be kept in my office; and I do hereby certify that the above is a true copy from said records, as held in the Commonwealth's central vital records information repository.

Anthony J. Zelli

Clerk
City of Brockton

2D

Exhibit H

Exhibit Intentionally Excluded

Exhibit I

AFFIDAVIT OF DARCY PEREIRA BRITO

I, Darcy Pereira Brito, being duly sworn, depose and say:

1. My name is Darcy Pereira Brito, my maiden name is Darcy France. I am married to Gilberto Pereira Brito. I am a U.S. citizen, born in Stoughton, MA in [REDACTED]
2. Gilberto's been in the U.S. since 2005. We got married October 20, 2013 but were a couple for several years before then. We live together at [REDACTED]
We've lived together over 10 years and have three children, age 10, 4, and about 8 months.
3. We met in about April or May 2007, and became a couple July 2007. We've been together ever since. He's never left the U.S. in the time that I've known him, he's been living here in the U.S. all this time. To my knowledge, he's never been in trouble with the police, either.
4. Our three children are [REDACTED]
[REDACTED]
5. My husband is the breadwinner for the family, working in construction and painting.
6. I do not work. I'm a stay at home mom. I collect SSDI benefits and have for about 2 years. I have post-traumatic stress disorder (PTSD) and panic disorder with depression, and complications from gastric bypass, which makes me weak and sick constantly, so I can't hold a full-time job.
7. Right now, while my husband is in custody, I'm meeting with my therapist twice a week, once in person and once later in the week by phone. She comes to my house to treat me. Her name is Kathryn Wells, she's with South Bay Community Resources. She's been my therapist for 8 or 9 years.
8. Prior to my husband being taken into custody, I was seeing her biweekly, that's every two weeks. I need her assistance so much more because my husband is not with me.
9. I feel lost and alone, and I don't know how I can pay for diapers for the baby if my husband isn't

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released. I can't pay rent on my disability – that's \$1150/mo, and I get hundreds less than that in SSDI benefits. The math simply doesn't work without Gilberto. I need him to come home right away.

10. Every other Friday there's a morning mingle at my 4-year-old daughter's school, and Gilberto is usually the only man there, which I find pretty funny, but also kind of sad, dads want to be with their kids but the expectation is that only moms will go. The mingles are to get families to know each other. He also recently signed up for Daddy and Me classes for our 4-year old daughter, but he can't go while he's in detention, so he's missing the classes right now.
11. Our children are really upset, their lives have been completely disrupted. I've been too depressed to go out and do anything since Gilberto was detained, so there's no more mingles or anything other than just going to school. I'm able to get the kids to school and feed them, but I feel like I'm holding on by my fingernails. I need my husband.
12. Gilberto's been a rock, because of him, I was able to get off my medications. I've been taking one medication or another practically my whole life, and I've been able to transition off with his help and support. I need his help to keep it that way.
13. Gilberto's a family man, and we are a tight-knit family. It's like there's a hole in the family with him gone. Even our landlord is asking after him, and not just because rent is due next week.
14. Since Gilberto was detained, I have been overwhelmed with people messaging me on Facebook, text messaging, calling me, to find out what's going on, is he OK, when is he coming home to us. I must have gotten 300 messages of one kind or another since he's been detained. He's valued by his friends, and of course missed desperately by his family.

Signed under pains and penalties of perjury, on the 28th day of March, 2019.


Darcy Pereira Brito



Exhibit J

0707CR02231

BMC Department

DEFENDANT NAME AND ADDRESS
Gilberto A Lourenco
 98 B W Water St
 Rockland, MA 02370

DOB [REDACTED] GENDER Male
 DATE COMPLAINT ISSUED 04/09/2007
 PRE-COMPLAINT ARREST DATE 04/07/2007

COURT NAME & ADDRESS
 BMC Dorchester
 610 Washington Street
 Dorchester, MA 02127-2700

FIRST FIVE OFFENSE COUNTS

COUNT	CODE	OFFENSE DESCRIPTION
1	89A	KEEP RIGHT ON HILL/OBSTRUCTED VIEW, FL
2	90/10/A	UNLICENSED OPERATION OF MV code § 10
3	90/24/J	CONLIQUOR OR .09% code § 24(1)(e)(X)
4	94C/34/G	DRUG, POSSESS CLASS P code § 34

DEFENSE ATTORNEY

Steve Lippard

OFFENSE CITY/TOWN
BostonPOLICE DEPARTMENT
BP South Boston

I HEREBY CERTIFY THAT THIS IS A COPY, GIVEN UNDER MY HAND AND
 THIS 26 DAY OF APRIL 2019
 CLERK/MAGISTRATE
 ASSISTANT CLERK
 [Signature]

OFFENSE DATE
04/07/2007DUE DATE
04/07/2007DRAFT DATE
04/07/2007

2019

DATE & JUDGE	DOCKET ENTRY	DATE & JUDGE	FEES IMPOSED
9-10-07	<input type="checkbox"/> Attorney appointed (BMC R-3-10) <input type="checkbox"/> Ally denied & Dkt. Advised per 211 D § 32A <input type="checkbox"/> Waiver of Counsel found after arraignment	11/27/07 McCann	General Fees (211D § 2AC) 150 / 15 hrs <input type="checkbox"/> WAIVED Counsel Compensation (211D § 2) <input type="checkbox"/> WAIVED
	Term of release note: <input type="checkbox"/> PPR <input type="checkbox"/> Bell <input type="checkbox"/> See Docket for special condition <input type="checkbox"/> Held (276 § 58A)		Default Warrant Fee (276 § 3091) <input type="checkbox"/> WAIVED
	Arraigned and advised: <input type="checkbox"/> Potential of bail revocation (276 § 58) <input type="checkbox"/> Right to bail to review (276 § 58) <input type="checkbox"/> Right to drug exam (111E § 10)		Default Warrant Arrest Fee (276 § 3092) <input type="checkbox"/> WAIVED
9-10-07	Payne J. <input type="checkbox"/> Advised of right to try <input type="checkbox"/> Waiver of jury found after arraignment <input type="checkbox"/> Does not waive		Probation Supervision Fee (276 § 87A) <input type="checkbox"/> WAIVED Bail Order Forfeited 10/1/08 7/50 cash 410-8200-39 0.00
	Advised of trial rights as pro se (Def. GL 5420.8.4)		
	Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 38)		

SCHEDULING HISTORY

NO.	SCHEDULED DATE	EVENT	RESULT	JUDGE	TAPE START/STOP
1	04/09/2007	Arraignment	<input type="checkbox"/> Held <input type="checkbox"/> Contd 4/9/07 8:00 AM Warrant	McCann	10-1228
2	11-27-07 PTH		<input type="checkbox"/> Held <input type="checkbox"/> Contd 04/07/08 - PTH McCann 04-1228	McCann	04-1228
3			<input type="checkbox"/> Held <input type="checkbox"/> Contd 4/12/08 JT/Motion Supp		
4	8-6-08 4:17	4:17	<input type="checkbox"/> Held <input type="checkbox"/> Contd 7-17-08 JT	McCann	7-17-08
5			<input type="checkbox"/> Held <input type="checkbox"/> Contd 8/25/08 JT/Status		
6	8-25-08	IT	<input type="checkbox"/> Held <input type="checkbox"/> Contd 7-24-09 Rev	Miller	5/11/09-11:59
7	5-7-19 motion		<input type="checkbox"/> Held <input type="checkbox"/> Contd 5-22-19 PTH	Brown	5-10-19
8			<input type="checkbox"/> Held <input type="checkbox"/> Contd		
9			<input type="checkbox"/> Held <input type="checkbox"/> Contd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Contd		

APPROVED ABBREVIATIONS

ARR = Arraignment PTH = Pretrial hearing DIS = Discovery conference & jury selection STR = Status Hld JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing RTR = Status review
 GRP = Global review of prosecution PAF = Plea agreement to jury trial GRM = Grand Jury CMF = Conference with trial judge scheduled to prosecute PFD = Probation scheduled to prosecute
 DPA = Defendant failed to appear & was indicted WMR = Merit Report WARD = Default warrant issued WR = Warrant of default warrant issued PTH = pretrial hearing hearing

A TRUE COPY ATTEST:	CLERK/MAGISTRATE / ASST CLERK	TOTAL NO. OF PAGES	ON (DATE)
	X		

DISPOSITION DATE AND JUDGE						
COUNT / OFFENSE 1 KEEP RIGHT ON HILL/OBSTRUCTED VIEW, PL * c89 §4						
DISPOSITION METHOD		FINES/ASSESSMENT	SURFEE	COSTS	OUI BATTEREE FEE	OUI VICTIM'S AMT
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §290 warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prossui <input type="checkbox"/> Declininalized (277 §70 c)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE	OTHER
SENTENCE OR OTHER DISPOSITION						
<input type="checkbox"/> Sufficient facts found but continued without a finding unit: <input type="checkbox"/> Defendant placed on probation unit: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) unit: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:						
<input type="checkbox"/> Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Probable Cause		<input checked="" type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Not Responsible <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		
					JUDGE DATE	
COUNT / OFFENSE 2 UNLICENCED OPERATION OF MV c89 §10					DISPOSITION DATE AND JUDGE	
DISPOSITION METHOD		FINES/ASSESSMENT	SURFEE	COSTS	OUI BATTEREE FEE	OUI VICTIM'S AMT
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §290 warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prossui <input type="checkbox"/> Declininalized (277 §70 c)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE	OTHER
SENTENCE OR OTHER DISPOSITION						
<input checked="" type="checkbox"/> Sufficient facts found but continued without a finding unit: <input type="checkbox"/> Defendant placed on probation unit: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) unit: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:						
<input type="checkbox"/> Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Probable Cause		<input type="checkbox"/> Not Guilty <input type="checkbox"/> Not Responsible <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		
					JUDGE DATE	
COUNT / OFFENSE 3 OUL-LIQUOR OR .01% c90 §34(1)(a)(1)					DISPOSITION DATE AND JUDGE	
DISPOSITION METHOD		FINES/ASSESSMENT	SURFEE	COSTS	OUI BATTEREE FEE	OUI VICTIM'S AMT
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §290 warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prossui <input type="checkbox"/> Declininalized (277 §70 c)		HEAD INJURY ASMT	RESTITUTION	VW ASSESSMENT	BATTERER'S FEE	OTHER
SENTENCE OR OTHER DISPOSITION						
<input checked="" type="checkbox"/> Sufficient facts found but continued without a finding unit: <input type="checkbox"/> Defendant placed on probation unit: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) unit: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:						
<input type="checkbox"/> Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Probable Cause		<input type="checkbox"/> Not Guilty <input type="checkbox"/> Not Responsible <input type="checkbox"/> No Probable Cause		FINAL DISPOSITION <input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)		
					JUDGE DATE	

CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME Gilberto A. Lawrence		DISPOSITION DATE AND JUDGE 82508 Miller, J	
COUNT / OFFENSE 4 DRUG, POSSESS CLASS D 094C §34					
DISPOSITION METHOD		PUNISHMENT	BURFNE	COSTS	OUI \$240 FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §320 warning <input type="checkbox"/> Bench Trial <input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VIV ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Defendant facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §57) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION JUDGE DATE			
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated; defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
DISPOSITION METHOD		PUNISHMENT	BURFNE	COSTS	OUI \$240 FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §320 warning <input type="checkbox"/> Bench Trial <input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VIV ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Defendant facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §57) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION JUDGE DATE			
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated; defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
DISPOSITION METHOD		PUNISHMENT	BURFNE	COSTS	OUI \$240 FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §320 warning <input type="checkbox"/> Bench Trial <input checked="" type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VIV ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION <input type="checkbox"/> Defendant facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (276 §57) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION JUDGE DATE			
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated; defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			

CRIMINAL DOCKET DOCKET ENTRIES		DEFENDANT NAME Gilberto A Lawrence	NOTIFY/CERTIFY/TELE COPY, GIVING UNDER WR THIS 20th DAY OF MAY 2007 DOCKET ENTRIES	DOCKET NUMBER 0707CR002231 THIS IS A TRIAL DOCKET AND SEAL
DATE			DOCKET ENTRIES 0707CR002231 THIS IS A TRIAL DOCKET AND SEAL	
PR 09 2007		WARRANT ISSUED	DOCKET ENTRIES 0707CR002231 THIS IS A TRIAL DOCKET AND SEAL	
9/10/07		WARRANT RECALLED	ADV @ req. of probation DC	
9-10-07	3RD	Copy of Atty. Hafford OC (216) DO NOT OPERATE until Prop. Lic Portuguese Interpreter	RETR. 11-27-07	
9-10-07		Interp. ordered by & failed by Atty. Drysdale except Case cont. with the PTH 01/07/08. Judge M. Connolly Portuguese Speaking Int. needed @		
11-07-07		Interp. Reg. (3)		
1-7-08		Portuguese Int. needed on 1/03/08 for J. trial	Am. 1/03/08	
4-2-08		DF want to see - At Drysdale indicates to ct that D may be ill. @ P.O. present (trooper)		
4-2-08		SCH. 7500		
4/3/08		WARRANT RECALLED ADV @ req. of prob. DC		
4-5-08	11-27-08			
7-17-08		THIS CASE MUST BE CONTINUED FOR THE SECOND TIME ON A JURY TRIAL DATE BECAUSE THE COURT DID NOT REQUEST AN INTERPRETER		
8-20		11-27-08	0/25/08	Handwritten
APPROVED ABBREVIATIONS ARR = Arraignment PTA = Plaintiff's attorney DCG = Defendant's co-counsel & jury selection STR = Stand trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing UNR = Unlawful search CRP = Criminal review of payment PAT = Plaintiff's attorney in jury selection SGN = Summons CWP = Continuance without finding substituted to defendant PRO = Protection substituted to defendant DFTA = Defendant failed to appear & was defaulted WMR = Warrant issued WAPD = Default warrant issued WR = Warrant or default warrant rejected PWA = protection waiver/exception hearing.				

NO.	DATE	DOCKET ENTRIES
		INTERPRETER REQUESTED Pet. 8-25-08. JP/
7-27-08		Lost drink at private home Miller (78)
8-25-08		
8-27-08		ABSTRACT SENT TO REGISTRY JP/
5-14-09		Advanced at the request of PD Skinner and continued for PPA 5-27-09/long
MAY 27 2009		Desmond J Issue V.O.P. Warr.
5/27/09		Arrmt PPA 681
5-7-19		APPEARANCE OF MR. GORDON THOMAS FEDOR MOTION TO REM. OF - W/IN ICE CUSTODY AND SEPARATION WARNING OFF 1000 FT LIFTOFF AND A NEED TO CLEAR INMATE - TWO SPECIFIC TIMES - 6hr
5/7/19		Habeas to issue filed at the Plymouth County H.C. via ICE Please follow the hearing protocol as it appear on the yellow lined paper in folder (Benn)
		114 Boring & in on 5/22/19 (Benn) for PPA
		Don't recall the warrant until 1 comes in as 5/22/19
5-7-19		Habe issued to Plymouth City H.C. ICE UNIT, Pet. 5-22-19. ex
5/21/19		File re habeas to Plymouth County H.C. under name Pereira-Bento, Gilbento AKA Lourenco, Gilbento ret 5/22/19 also send ICE approval
5-21-19		Habe issued to Plymouth H.C. ret 5-22-19 ex
5-22-19		1:35 session start 1023

ACRO Morrison Atty Thomas Aftor
Preliminary surrender hearing probable
cause found A waives 7 days notice
cause found violation of probation cwf
revoked case dismissed Kaplansky
All fees waived

5/22/19 WAIVED FEES

WIT

THE HONORABLE JUDGE
THIS 29TH DAY OF MAY 2019
RECEIVED
CLERK

12

Exhibit K

CRIMINAL DOCKET		DOCKET NUMBER	NO. OF COUNTS	Trial Court of Massachusetts District Court Department	
DEFENDANT NAME AND ADDRESS Gilberto A Lourenco 296 Martha St Rockland, MA 02370		DOB [REDACTED]	GENDER: Male	COURT NAME & ADDRESS Hingham District Court 28 George Washington Boulevard Hingham, MA 02043	
		DATE COMPLAINT ISSUED 05/07/2009	PRECOMPLAINT ARREST DATE 05/07/2009	INTERPRETER REQUIRED PORTUGUESE	
FIRST FIVE OFFENSE COUNTS					
COUNT 1	CODE 80/23/D	OFFENSE DESCRIPTION LICENSE SUSPENDED, OP MV WITH c90 \$23	OFFENSE DATE 05/07/2009		
DEFENSE ATTORNEY		OFFENSE CITY/TOWN Hanover		POLICE DEPARTMENT Hanover PD	
DATE & JUDGE MAY - 7 2009 Hunley	DOCKET ENTRY Terms of release set: <input checked="" type="checkbox"/> PR <input type="checkbox"/> Bail <input type="checkbox"/> See Docket for special condition <input type="checkbox"/> Hold (276 § 68A)		DATE & JUDGE	FEES IMPOSED Counsel Fee (211D § 2A)(2) \$ <input type="checkbox"/> WAIVED	
				Counsel Contribution (211D § 2) \$ <input type="checkbox"/> WAIVED	
				Default Warrant Fee (276 § 30)(1) \$ <input type="checkbox"/> WAIVED	
				Default Warrant Arrest Fee (276 § 30 § 2) \$ <input type="checkbox"/> WAIVED	
	Assigned and advised: Advised of right to Jury trial			Probation Supervision Fee (276 § 87A) \$ <input type="checkbox"/> WAIVED	
	<input type="checkbox"/> Potential of bail revocation (276 § 68) <input type="checkbox"/> Right to bail to review (276 § 68) <input type="checkbox"/> Right to drug exam (111E § 10)			Bail Order Forfeited	
	<input type="checkbox"/> Waiver of jury found after colloquy <input type="checkbox"/> Does not waive				
	Advised of trial rights as pro se (Dist. Ct. Supp.RA)				
	Advised of right of appeal to Appeals Ct. (M.R. Crim P.R. 28)				
SCHEDULING HISTORY					
NO.	SCHEDULED DATE 05/07/2009 6-5-09 P.T.	EVENT Assignment	RESULT <input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	JUDGE [REDACTED]	TAPE START/STOP
2			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd	10H	
3			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
4			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
5			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
6			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
7			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
8			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
9			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
10			<input type="checkbox"/> Held <input type="checkbox"/> Not Held but Event Resolved <input type="checkbox"/> Cont'd		
APPROVED ABBREVIATIONS ARR = Arraignment PTH = Prelim hearing DCE = Discovery conference A Jury indication STR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motion hearing STA = Status review SPP = Status review of payments PAT = First appearance to Jury session BEN = Bond setting CWR = Confidential without record hearing scheduled to terminate PRO = Protection scheduled to terminate DFTA = Defendant failed to appear & was detained WAR = Warrant issued WARD = Warrant of record issued WR = Warrant or default warrant received PVH = protection revocation hearing.					
A TRUE COPY ATTEST:	CLERK-MAGISTRATE / ASST CLERK X		TOTAL NO. OF PAGES 3	ON (DATE) 7/29/19	



0958CR000932

14

CRIMINAL DOCKET - OFFENSES		DEFENDANT NAME Gilberto A Lawrence		DOCKET NUMBER 0958CR000932	
COUNT / OFFENSE 1 LICENSE SUSPENDED, OP MV WITH c80 §23		DISPOSITION DATE AND JUDGE			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFNE	COSTS	OUI \$24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VM ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFNE	COSTS	OUI \$24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VM ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			
COUNT / OFFENSE		DISPOSITION DATE AND JUDGE			
DISPOSITION METHOD		FINE/ASSESSMENT	SURFNE	COSTS	OUI \$24D FEE
<input type="checkbox"/> Guilty Plea or <input type="checkbox"/> Admission to Sufficient Facts accepted after colloquy and 278 §28D warning <input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Dismissed upon: <input type="checkbox"/> Request of Commonwealth <input type="checkbox"/> Request of Victim <input type="checkbox"/> Request of Defendant <input type="checkbox"/> Failure to prosecute <input type="checkbox"/> Other: <input type="checkbox"/> Filed with Defendant's consent <input type="checkbox"/> Nolle Prosequi <input type="checkbox"/> Decriminalized (277 §70 C)		HEAD INJURY ASMT	RESTITUTION	VM ASSESSMENT	BATTERER'S FEE
		SENTENCE OR OTHER DISPOSITION			
		<input type="checkbox"/> Sufficient facts found but continued without a finding until: <input type="checkbox"/> Defendant placed on probation until: <input type="checkbox"/> Risk/Need or OUI <input type="checkbox"/> Administrative Supervision <input type="checkbox"/> Defendant placed on pretrial probation (278 §87) until: <input type="checkbox"/> To be dismissed if court costs / restitution paid by:			
FINDING		FINAL DISPOSITION		JUDGE	DATE
<input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Responsible <input type="checkbox"/> Not Responsible <input type="checkbox"/> Probable Cause <input type="checkbox"/> No Probable Cause		<input type="checkbox"/> Dismissed on recommendation of Probation Dept. <input type="checkbox"/> Probation terminated: defendant discharged <input type="checkbox"/> Sentence or disposition revoked (see cont'd page)			

IS

APPROVED ABBREVIATIONS

**ARR = Arraignment PTH = Pretrial hearing DCE = Discovery conference & jury selection STR = Bench trial JTR = Jury trial PCH = Probable cause hearing MOT = Motions hearing SRE = Status Review
 SPP = Status review of payments PAT = First appearance in jury session SEN = Sentencing CWF = Continuance-without-finding scheduled to terminate PRO = Production scheduled to terminate
 DFTA = Defendant failed to appear & was defaulted WAR = Warrant issued WARD = Default warrant issued WFI = Warrant or default warrant issued PVH = production revocation hearing.**

OrderItem Printed: 03-07-2020 14:05:00



0958CR000937

Version 2.0 - 1499

ly

Exhibit L

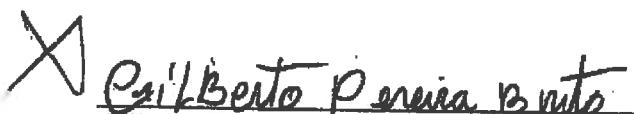
AFFIDAVIT OF GILBERTO PEREIRA BRITO

I, Gilberto Pereira Brito, being duly sworn, depose and say:

1. I did not know a default warrant was issued against me by the Dorchester Court in 2009. I followed the Dorchester Court's orders in my case. I went to my alcohol classes. I put the lessons they taught me to work. I changed my behavior so that I don't even keep alcohol in the house and haven't since that time. I also paid whatever fees they told me to. I thought my case was over.
2. I understand that the default warrant in Dorchester came from getting pulled over and sent to the Hingham Court.
3. I did not go back to the Hingham Court after I was released because they told me I was done. They said I was "all set". That meant I was done and the case was over.
4. I did not receive the notice of violation of my probation telling me to appear in Dorchester. It was sent to the wrong address, 92B Water Street, Rockland, MA 02370. My address at the time was 92B W. Water Street. I did not receive this notice. If I had, I would have gone to court.
5. At all times, I have believed my case in Hingham was over, and my case in Dorchester was over, and that I had no criminal record because my cases were dismissed.
6. If I had known earlier that either case was somehow incomplete or that a default warrant had been issued against me, I would have hired a criminal lawyer then to represent me.
7. Now that I do know, that is exactly what I have done. My criminal lawyer is Lauren Thomas, Esq.
8. She tells me both cases will be dismissed, but the Hingham case won't be heard until June.
9. I am a law-abiding person. I complied with everything the courts told me to do, if only I had gotten the notice of hearing sent to the wrong address, I would have complied with its instructions and gone to court 10 years ago as instructed.

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Signed under pains and penalties of perjury,



Gilberto Pereira Brito

Date: 05-15-2019

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Exhibit M

TO THE ABOVE-NAMED PROBATIONER:

YOU ARE HEREBY NOTIFIED of the following alleged violation(s) of the probation order that was issued to you in the criminal case identified above:

You violated a criminal law of the commonwealth, namely: *New Arrest- 0958CR 0932
OP after Sus Lic*

You failed to attend or successfully complete a required program, specifically:

You failed a required drug test, specifically:

You failed to make a required payment, specifically:

You failed to report as required by your probation specifically:

Other:

YOU ARE HEREBY ORDERED as follows:

YOU MUST APPEAR in THIS COURT on 5/27/09 at 9:00am, for a hearing on the allegation(s) listed above.

You are entitled to have a lawyer to represent you at the hearing, and one will be appointed if you cannot afford to hire one. Evidence will be presented against you at the hearing and you will be able to present your own evidence. Speak with your attorney before the hearing to prepare. If you fail to appear, you may be subject to arrest with or without a warrant. If the probation violation(s) alleged above is (are) proved, your probation may be modified or revoked.

YOU MUST APPEAR in the _____ COURT
at _____ on _____
(Address) (Date)
at _____ for the appointment of counsel, if necessary, and the scheduling of
(Time)
a hearing on the alleged probation violation(s) listed above. If you fail to appear, you may be subject to arrest
with or without a warrant.

A copy of this Notice has this day been SERVED IN HAND ON
ADDRESS OF RECORD OF the probationer named above.

5/14/09

Date

MAILED FIRST CLASS TO THE

Patricia M. Therrien
Signature of issuing Probation Officer

*Gilberto Lawrence
928 Water Street
Rockland, Me 02370*

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Exhibit N

U.S. Citizenship and Immigration Services

THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.

Receipt Number SRC1790545420	Case Type I-130 - PETITION FOR ALIEN RELATIVE	
Received Date 06/12/2017	Priority Date 06/12/2017	Petitioner PEREIRA BRITO, DARCY LYNNE
Notice Date 02/17/2018	Page 1 of 1	Beneficiary PEREIRA BRITO, GILBERTO
DARCY LYNNE PEREIRA BRITO c/o SIDRA VITALE LAW OFFICE OF SIDRA VITALE PO BOX 692148 QUINCY MA 02269		Notice Type: Approval Notice Section: Husband or wife of U.S. Citizen, 201(b) INA

We have mailed an official notice about this case (and any relevant documentation) according to the mailing preferences you chose on Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. This is a courtesy copy, not the official notice.

What the Official Notice Said

The above petition has been approved. As the petitioner requests, we have sent the petition to the U.S. Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909. The NVC processes all approved immigrant visa petitions that need consular action. It also determines which consular post is the appropriate consulate to complete visa processing. The NVC will then forward the approved petition to that consulate.

The NVC will contact the beneficiary of this petition with further information about immigrant visa processing steps.

You should allow a minimum of 30 days for U.S. Department of State processing before contacting the NVC. If you have not received any correspondence from the NVC within 30 days, you may contact the NVC by e-mail at NVCINQUIRY@state.gov. You will need to enter the USCIS receipt number from this approval notice in the subject line. In order to receive information about your petition, you will need to include in the body of the e-mail your name and date of birth, and the Applicant's (beneficiary's) name and date of birth.

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

NOTICE: Although this application or petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

Texas Service Center
U. S. CITIZENSHIP & IMMIGRATION SVC
P.O. Box 851488 - DEPT A
Mesquite TX 75185-1488

Customer Service Telephone: 800-375-5283

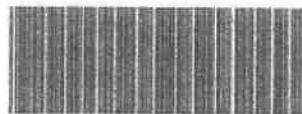


Exhibit O

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
BOSTON, MASSACHUSETTS

IN THE MATTER OF _____)
PEREIRA BRITO, Gilberto)
Respondent _____)

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

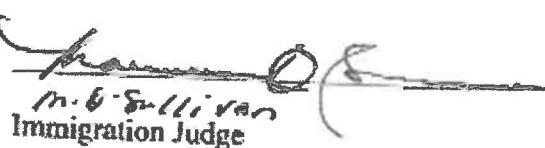
Upon consideration of Counsel's Motion to Reopen In Absentia Order of Removal Due to Defective Notice, it is hereby ordered that the motion be
 GRANTED DENIED because:

DHS does not oppose the motion.
 The respondent does not oppose the motion.
 A response to the motion has not been filed with the court.
 Good cause has been established for the motion.
 The court agrees with the reasons stated in the opposition to the motion.
 The motion is untimely per
 Other: *Apparent lack of notice.*

Deadlines:

The application(s) for relief must be filed by _____
 The respondent must comply with DHS biometrics instructions by _____

3/18/19
DATE


M. B. Sullivan
Immigration Judge

CERTIFICATE OF SERVICE

This document was served by: Mail Personal Service
To: Alien Alien c/o Custodial Officer Alien's Atty/Rep DHS

Date: 3/19/19 By: Court Staff WD

3

Exhibit P

U.S. Department of Justice
Executive Office for Immigration Review

OMB#H25-0001

Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents

**PLEASE READ ADVICE AND INSTRUCTIONS
BEFORE FILLING IN FORM**

Fee Stamp (Official Use Only)

PLEASE TYPE OR PRINT

PART 1 - INFORMATION ABOUT YOURSELF

1) My present true name is: (Last, First, Middle) PEREIRA BRITO, Gilberto		2) Alien Registration (or "A") Number(s): [REDACTED]		
3) My name given at birth was: (Last, First, Middle) PEREIRA BRITO, Gilberto		4) Birth Place: (City and Country) IPATINGA, MINAS GERAIS, BRAZIL		
5) Date of Birth: (Month, Day, Year) [REDACTED]	6) Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	7) Height: 5'11"	8) Hair Color: BLACK	9) Eye Color: BROWN
10) Current Nationality and Citizenship: BRAZIL	11) Social Security Number: [REDACTED]	12) Home Phone Number: [REDACTED]	13) Work Phone Number: [REDACTED] ()	
14) I currently reside at: ICE DETENTION PLYMOUTH COUNTY CORRECTIONAL Apt. number and/or Box or Room Number 26 LONG POND ROAD Number and Street PLYMOUTH City or Town		15) I have been known by these additional name(s): [REDACTED] [REDACTED]		

16) I have resided in the following locations in the United States: (List PRESENT ADDRESS FIRST, and work back in time for at least 10 years.)

Street and Number - Apt. or Room # - City or Town - State - Zip Code	Resided From: (Month, Day, Year)	Resided To: (Month, Day, Year)
ICE DETENTION	03/03/2019	PRESENT
[REDACTED]		

PART 2 - INFORMATION ABOUT THIS APPLICATION

17) I, the undersigned, hereby request that my removal be cancelled under the provisions of section 240A(e) of the Immigration and Nationality Act (INA). I believe that I am eligible for cancellation of removal because: (Check all that apply.)

My removal would result in exceptional and extremely unusual hardship to my:

UNITED STATES CITIZEN	LAWFUL PERMANENT RESIDENT	TEMPORARY STATUS	NO STATUS
<input checked="" type="checkbox"/> spouse, who is a	✓	—	—
<input type="checkbox"/> father, who is a	—	—	—
<input type="checkbox"/> mother, who is a	—	—	—
<input checked="" type="checkbox"/> child/children, who is/are a	✓	—	—

With the exception of absences described in question #23, I have resided in the United States since:

(Month, Day, Year) 04/13/2005

I, or my child, have been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident spouse or parent.

With the exception of absences described in question #23, I have resided in the United States since:

(Month, Day, Year) _____

Please continue answers on a separate sheet as needed.

(1)

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PART 3 - INFORMATION ABOUT YOUR PRESENCE IN THE UNITED STATES

18) I first arrived in the United States under the name of: (Last, First, Middle) PEREIRA BRITO, Gilberto	19) I first arrived in the United States on: (Month, Day, Year) 04/13/2005
---	--

20) Place or port of first arrival: (Place or Port, City, and State)

RIO GRANDE CITY, TEXAS

21) I: <input type="checkbox"/> was inspected and admitted. <input checked="" type="checkbox"/> I entered using my Lawful Permanent Resident card which is valid until _____ <input type="checkbox"/> I entered using a _____ visa which is valid until _____ <input checked="" type="checkbox"/> was not inspected and admitted. (Specify Type of Visa) <input checked="" type="checkbox"/> I entered without documents. Explain: EWI <input checked="" type="checkbox"/> I entered without inspection. Explain: EWI <input type="checkbox"/> Other. Explain: _____
--

22) I applied on _____ (Month, Day, Year)	for additional time to stay and it was: <input type="checkbox"/> granted on _____ (Month, Day, Year)
and valid until _____ (Month, Day, Year)	, or <input type="checkbox"/> denied on _____ (Month, Day, Year)

23) Since the date of my first entry, I departed from and returned to the United States at the following places and on the following dates:
(Please list all departures regardless of how briefly you were absent from the United States.)*If you have never departed from the United States since your original date of entry, please mark an X in this box:*

Port of Departure (Place or Port, City and State)	Departure Date (Month, Day, Year)	Purpose of Travel	Destination
1 Port of Return (Place or Port, City and State)	Return Date (Month, Day, Year)	Manner of Return	Inspected and Admitted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2 Port of Departure (Place or Port, City and State)	Departure Date (Month, Day, Year)	Purpose of Travel	Destination
Port of Return (Place or Port, City and State)	Return Date (Month, Day, Year)	Manner of Return	Inspected and Admitted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

24) Have you ever departed the United States: a) under an order of deportation, exclusion, or removal? Yes No
b) pursuant to a grant of voluntary departure? Yes No

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE (Continued on page 3)

25) I am not married: <input type="checkbox"/>	26) If married, the name of my spouse is: (Last, First, Middle) I am married: <input checked="" type="checkbox"/> PEREIRA BRITO, Darcy	27) My spouse's name before marriage was: FRANCE
28) The marriage took place in: (City and Country) BROCKTON, MA USA	29) Date of marriage: (Month, Day, Year) 10/20/2013	
30) My spouse currently resides at: 	31) Place and date of birth of my spouse: (City & Country, Month, Day, Year) STOUGHTON, MA USA	
	32) My spouse is a citizen of: (Country) UNITED STATES	

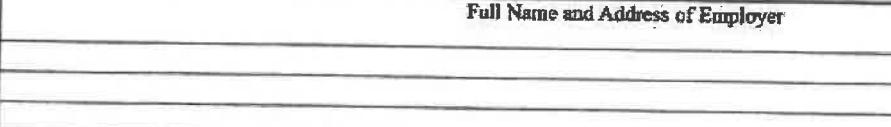
33) If your spouse is other than a native born United States citizen, answer the following:

He/she arrived in the United States at: (Place or Port, City and State)

He/she arrived in the United States on: (Month, Day, Year)

His/her alien registration number(s) is: A#

He/she was naturalized on: (Month, Day, Year) at _____
(City and State)34) My spouse - is - is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week (Approximate)
	\$
	\$
	\$

Please continue answers on a separate sheet as needed.

PART 4 - INFORMATION ABOUT YOUR MARITAL STATUS AND SPOUSE (Continued)

35) I - have - have not been previously married: (If previously married, list the name of each prior spouse, the dates on which each marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:
██	01/15/2000		DIVORCE
	06/27/2008		

36) My present spouse - has - has not been previously married: (If previously married, list the names of each prior spouse, the dates on which each marriage began and ended, the place where the marriage terminated, and describe how each marriage ended.)

Name of prior spouse: (Last, First, Middle)	Date marriage began:	Place marriage ended: (City and Country)	Description or manner of how marriage was terminated or ended:
██			

37) Have you been ordered by any court, or are otherwise under any legal obligation, to provide child support and/or spousal maintenance as a result of a separation and/or divorce? Yes No

PART 5 - INFORMATION ABOUT YOUR EMPLOYMENT AND FINANCIAL STATUS

38) Since my arrival into the United States, I have been employed by the following named persons or firms: (Please begin with present employment and work back in time. Any periods of unemployment or school attendance should be specified. Attach a separate sheet for additional entries if necessary.)

Full Name and Address of Employer	Earnings Per Week (Approximate)	Type of Work Performed	Employed From: (Month, Day, Year)	Employed To: (Month, Day, Year)
SELF-EMPLOYED	\$			PRESENT
██	\$			
██	\$			
██	\$			

39) If self-employed, describe the nature of the business, the name of the business, its address, and net income derived therefrom:

██

██

██

██

40) My assets (and if married, my spouse's assets) in the United States and other countries, not including clothing and household necessities, are:

Self

Cash, Stocks, and Bonds..... \$ _____
Real Estate..... \$ _____
Auto (dollar value minus amount owed)..... \$ _____
Other (describe on line below)..... \$ _____

TOTAL \$ _____

Jointly Owned With Spouse

Cash, Stocks, and Bonds..... \$ _____
Real Estate..... \$ _____
Auto (dollar value minus amount owed)..... \$ _____
Other (describe on line below)..... \$ _____

TOTAL \$ _____

41) I - have - have not received public or private relief or assistance (e.g., Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.). If you have, please give full details including the type of relief or assistance received, date for which relief or assistance was received, place, and total amount received during this time:

██

██

42) Please list each of the years in which you have filed an income tax return with the Internal Revenue Service:

██

Please continue answers on a separate sheet as needed.

{3}

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PART 6 - INFORMATION ABOUT YOUR FAMILY (Continued on page 5)

43) I have 3 (Number of) children. Please list information for each child below, include assets and earnings information for children over the age of 16 who have separate incomes:

Name of Child: (Last, First, Middle) Child's Alien Registration Number:	Citizen of What Country: Birth Date: (Month, Day, Year)	Now Residing At: (City and Country) Birth Date: (City and Country)	Immigration Status of Child
			USC
			USC
			USC

44) If your application is denied, would your spouse and all of your children accompany you to your:

Country of Birth - Yes No

If you answered "No" to any of the responses, please explain:

Country of Nationality - Yes No

MY WIFE HAS A SERIOUS MENTAL ILLNESS AND PHYSICAL
DISORDERS FOR WHICH SHE REQUIRES LONG-TERM TREATMENT

Country of Last Residence - Yes No

HERE IN THE U.S.

45) Members of my family, including my spouse and/or child(ren) - have - have not received public or private relief or assistance (e.g., Welfare, Unemployment Benefits, Medicaid, TANF, AFDC, etc.). If any member of your immediate family has received such relief or assistance, please give full details including identity of person(s) receiving relief or assistance, dates for which relief or assistance was received, place, and total amount received during this time:

46) Please give the requested information about your parents, brothers, sisters, aunts, uncles, and grandparents, living or deceased. As to residence, show street address, city, and state, if in the United States; otherwise show only country:

Name: (Last, First, Middle) Alien Registration Number: A#:	Citizen of What Country: Birth Date: (Month, Day, Year) BRAZIL	Relationship to Me: Birth Date: (City and Country) FATHER BRAZIL	Immigration Status of Listed Relative UNK
Complete Address of Current Residence, if Living: UNK			

Name: (Last, First, Middle) Alien Registration Number: A#:	Citizen of What Country: Birth Date: (Month, Day, Year) BRAZIL	Relationship to Me: Birth Date: (City and Country) MOTHER BRAZIL	Immigration Status of Listed Relative DECEASED
Complete Address of Current Residence, if Living:			

Please continue answers on a separate sheet as needed.

(4)

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PART 6 - INFORMATION ABOUT YOUR FAMILY (Continued)

IF THIS APPLICATION IS BASED ON HARDSHIP TO A PARENT OR PARENTS, QUESTIONS 47-50 MUST BE ANSWERED.

47) If your parent is not a citizen of the United States, give the date and place of arrival in the United States including full details as to the date, manner, and terms of admission into the United States:

48) My father - is - is not employed. If employed, please give salary and the name and address of the place(s) of employment.

Full Name and Address of Employer	Earnings Per Week (Approximate)
	\$

49) My mother - is - is not employed. If employed, please give salary and the name and address of place(s) of employment.

Full Name and Address of Employer	Earnings Per Week (Approximate)
	\$

50) My parent's assets in the United States and other countries not including clothing and household necessities are:

Assets of father consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed)..... \$ _____
 Other (describe on line below)..... \$ _____
TOTAL \$ _____

Assets of mother consist of the following:

Cash, Stocks, and Bonds..... \$ _____
 Real Estate..... \$ _____
 Auto (dollar value minus amount owed)..... \$ _____
 Other (describe on line below)..... \$ _____
TOTAL \$ _____

PART 7 - MISCELLANEOUS INFORMATION (Continued on page 6)

51) I - have - have not entered the United States as a crewman after June 30, 1964.

52) I - have - have not been admitted as, or after arrival in the United States acquired the status of, an exchange alien.

53) I - have - have not submitted address reports as required by section 265 of the Immigration and Nationality Act.

54) I - have - have never (either in the United States or in any foreign country) been arrested, summoned into court as a defendant, convicted, fined, imprisoned, placed on probation, or forfeited collateral for an act involving a felony, misdemeanor, or breach of any public law or ordinance (including, but not limited to, traffic violations or driving incidents involving alcohol). (If answer is in the affirmative, please give a brief description of each offense including the name and location of the offense, date of conviction, any penalty imposed, any sentence imposed, and the time actually served. You are required to submit documentation of any such occurrences.)

55) Have you ever served in the Armed Forces of the United States? Yes No. If "Yes" please state branch (Army, Navy, etc.) and service number: _____

Place of entry on duty: (City and State) _____

Date of entry on duty: (Month, Day, Year) _____

Date of discharge: (Month, Day, Year) _____

Type of discharge: (Honorable, Dishonorable, etc.) _____

I served in active duty status from: (Month, Day, Year) _____

to (Month, Day, Year) _____

56) Have you ever left the United States or the jurisdiction of the district where you registered for the draft to avoid being drafted into the military or naval forces of the United States?

Yes No

Please continue answers on a separate sheet as needed.

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PART 7 - MISCELLANEOUS INFORMATION *(Continued)*57) Have you ever deserted from the military or naval forces of the United States while the United States was at war? Yes No58) If male, did you register under the Military Selective Service Act or any applicable previous Selective Service (Draft) Laws? Yes No
If "Yes," please give date, Selective Service number, local draft board number, and your last draft classification: _____59) Were you ever exempted from service because of conscientious objection, alienage, or any other reason? Yes No60) Please list your present or past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or any other place since your 16th birthday. Include any foreign military service in this part. If none, write "None." Include the name of the organization, location, nature of the organization, and the dates of membership.

Name of Organization	Location of Organization	Nature of Organization	Member From: (Month, Day, Year)	Member To: (Month, Day, Year)

61) Have you ever:

Yes No been ordered deported, excluded, or removed?

Yes No overstayed a grant of voluntary departure from an Immigration Judge or the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service (INS)?

Yes No failed to appear for removal or deportation?

62) Have you ever been:

Yes No a habitual drunkard?

Yes No one whose income is derived principally from illegal gambling?

Yes No one who has given false testimony for the purpose of obtaining immigration benefits?

Yes No one who has engaged in prostitution or unlawful commercialized vice?

Yes No involved in a serious criminal offense and asserted immunity from prosecution?

Yes No a polygamist?

Yes No one who brought in or attempted to bring in another to the United States illegally?

Yes No a trafficker of a controlled substance, or a knowing assister, abettor, conspirator, or colluder with others in any such controlled substance offense (not including a single offense of simple possession of 30 grams or less of marijuana)?

Yes No inadmissible or deportable on security-related grounds under sections 212(a)(3) or 237(a)(4) of the INA?

Yes No one who has ordered, incited, assisted, or otherwise participated in the persecution of an individual on account of his or her race, religion, nationality, membership in a particular social group, or political opinion?

Yes No a person previously granted relief under sections 212(c) or 244(a) of the INA or whose removal has previously been cancelled under section 240A of the INA?

If you answered "Yes" to any of the above questions, explain: PENDING MOTION TO REOPEN IN ABSENTIA REMOVAL BASED ON DEFECTIVE NOTICE.

Please continue answers on a separate sheet as needed.

PART 7 - MISCELLANEOUS INFORMATION *(Continued)*

63) Are you the beneficiary of an approved visa petition? Yes No

If yes, can you arrange a trip outside the United States to obtain an immigrant visa? Yes No If no, please explain:

64) The following certificates or other supporting documents are attached hereto as a part of this application: (Refer to the Instructions for documents which should be attached.)

PART 8 - SIGNATURE OF PERSON PREPARING FORM, IF OTHER THAN APPLICANT

(Read the following information and sign below)

I declare that I have prepared this application at the request of the person named in Part 1, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant, and that the completed application was read to the applicant in a language the applicant speaks fluently for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information on the Form EOIR-42B may subject me to civil penalties under § U.S.C. 61324c.

Signature of Preparer:		Print Name:	Date:
Daytime Telephone #: ()	Address of Preparer: <i>(Number and Street, City, State, Zip Code)</i>		

Please continue answers on a separate sheet as needed.

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PART 9 - SIGNATURE

**APPLICATION NOT TO BE SIGNED BELOW UNTIL APPLICANT APPEARS BEFORE
AN IMMIGRATION JUDGE**

I swear or affirm that I know the contents of this application that I am signing, including the attached documents and supplements, and that they are all true to the best of my knowledge, taking into account the correction(s) numbered _____ to _____, if any, that were made by me or at my request.

(Signature of Applicant or Parent or Guardian)

Subscribed and sworn to before me by the above-named applicant at _____

Immigration Judge

Date (Month, Day, Year)

PART 10 - PROOF OF SERVICE

I hereby certify that a copy of the foregoing Form EOIR-42B was: - delivered in person - mailed first class, postage prepaid
on _____ to the Assistant Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement - ICE)
at _____
(Number and Street, City, State, Zip Code)

Signature of Applicant (or Attorney or Representative)

Please continue answers on a separate sheet as needed.

(8)

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Revised July 2016

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EOIR 42B Continuation page, Part I, Question 16

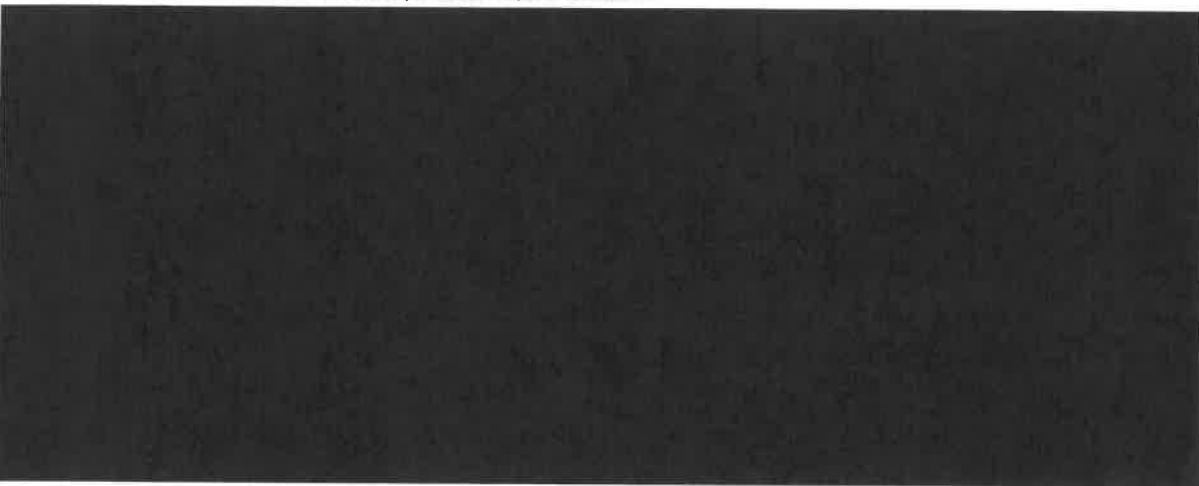


Exhibit Q

PEDIATRIC ASSOCIATES INC., of BROCKTON

PEDIATRICASSOCIATESOFBROCKTON.COM
(508) 584-1234



March 12, 2019

Peter D. Rappo, MD

Nancy L. Chapin, MD

Kevin J. Murphy, MD

David S. Chung, MD

Aziza Zaman, MD

Yevgeniya Fabrikant, MD

Yonatan E. Weinberg, MD

Victoria J. Tan, MD

Anshu Kumari, MD

Margaret F. Larrumbide, MD

Mary Ellen Dickinson, PNP

To whom it may concern;

Re: Pereira Brito Family

[REDACTED] and [REDACTED] Pereira Brito are patients mine here at Pediatric Associates Inc of Brockton. Their father is Gilberto Pereira Brito who lives with them and their mother. He is deeply involved with his family and provides emotional and financial support to the family. Please allow Mr Pereira Britto to remain in the United States because without his emotional and financial support his family would suffer tremendously.

If you have any further questions or concerns, please do not hesitate to call me at 508 584 1234.

Sincerely,

Nancy L. Chapin, M.D.
NLC/isa

370 Oak Street, Ste A
Brockton, MA 02301
Fax # 508 584-0250

291 E. Center Street
West Bridgewater, MA 02379
Fax # 508 584-6934

692 Main Street
Hanson, MA 02341
Fax# 781 294-4357

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To: Honorable Judge:

Please allow Gilberto Pereira Brito, to stay in the United States,
to take care of his wife, and three children.

Jacqueline A. Westfield
Mark Westfield
Ch. Roslyn
C. Boyle
Jane E. Lieders
Robert Mcfee
Irene Mcbee
Maureen J. O'Conor
Ann White Scalle
James Mcbee
Ed. Mcbee
Mark E. Roger
Justine Roger
Brenda Brooks
Marie A. Lane

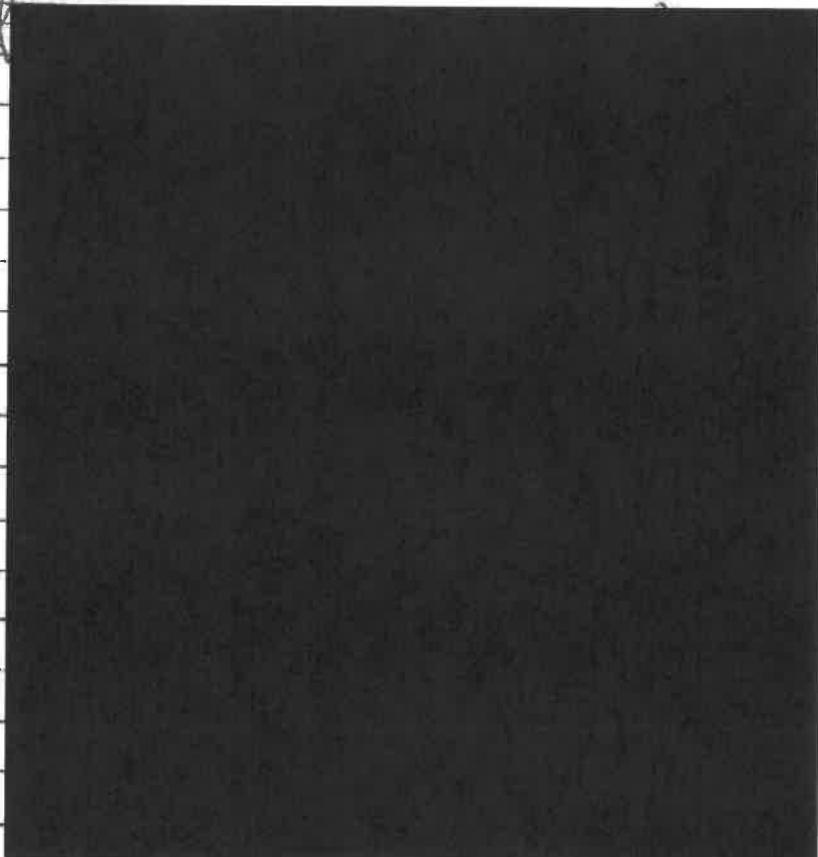


Exhibit R



Exhibit S

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

Law Office of Sidra Vitale
Vitale, Sidra
P.O. Box 692148
Quincy, MA 02269

In the matter of REREIJA-BRITO, GILBERTO

File REREIJA-BRITO, GILBERTO

DATE: May 23, 2019

unable to forward - No address provided.

Attached is a copy of the decision of the immigration judge. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

Attached is a copy of the decision of the immigration judge as the result of your failure to appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242b(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252b(c)(3) in deportation proceedings or section 240(b)(5)(C), 8 U.S.C. § 1229a(h)(5)(C) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA §232.

Attached is a copy of the decision of the immigration judge relating to a Creditable Fear Review. This is a final order. No appeal is available.

Other: None

J. St. John
COURT CLERK
IMMIGRATION COURT

PP

CC:

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
BOSTON, MASSACHUSETTS

IN THE MATTER OF:

PEREIRA-BRITO, Gilberto)
[REDACTED])
)
)
)
) In Bond Proceedings
Respondent) DETAINED

CHARGE: Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA" or "Act"): Alien who, is present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

APPLICATION: Motion for Custody Redetermination

ON BEHALF OF RESPONDENT

Sidra Vitale, Esq.
Law Office of Sidra Vitale
P.O. Box 692148
Quincy, MA 02269

ON BEHALF OF DHS

Justine Bavaro, Esq.
Assistant Chief Counsel
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
15 New Sudbury Street, Room 425
Boston, Massachusetts 02203

**MEMORANDUM CONCERNING THE APRIL 4, 2019,
DECISION OF THE IMMIGRATION COURT**

This memorandum, submitted pursuant to 8 C.F.R. § 1236.1(d) (2019), explains why the Boston Immigration Court ("Court") denied the Respondent's request for a change in custody status.

I. PROCEDURAL HISTORY

On May 7, 2005, the Department of Homeland Security ("DHS") initiated removal proceedings against the Respondent, Gilberto Pereira-Brito, through the filing of a Notice to Appear ("NTA") with the Court. Exh. 1. On April 4, 2019, the Court convened for a custody redetermination hearing at the Respondent's request. At the hearing, the Court was unable to find that the Respondent met his burden of proof to show that he does not pose a danger to persons or property. Further, even if he had, he has not demonstrated that the risk of flight present in his case could be ameliorated by posting of bond. Accordingly, the Court denied his request for a change in custody status.

II. APPLICABLE LAW

The Court may review the custody status of an alien in removal proceedings, provided that the alien is not subject to mandatory detention pursuant to section 236(c) of the Act. INA § 236(a) (2019). When reviewing an alien's custody status, the Court may order DHS to (1) continue to detain the alien or (2) release the alien on either a bond of not less than \$1,500.00 or conditional parole. *Id.* For the Court to order an alien's release, the alien must establish to the satisfaction of the Court that he does not pose a danger to persons or property, is not a threat to national security, and does not pose a flight risk. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (relying on *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999)); *see also* 8 C.F.R. §§ 1003.19(h)(3), 1236.1(c)(8).

The Board of Immigration Appeals ("BIA" or "Board") has consistently held that the following factors are significant in a custody redetermination:

1. Fixed address in the United States. *Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1979);
2. Length of residence in the United States. *Matter of Shaw*, 17 I&N Dec. 177, 178 (BIA 1979);
3. Family ties in the United States, particularly those which can confer immigration benefits on the alien. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Patel*, 15 I&N Dec. at 667;
4. Employment history in the United States, including length and stability. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Patel*, 15 I&N Dec. at 667;
5. Immigration record and eligibility for relief from removal. *Matter of Andrade*, 19 I&N Dec. 488, 491 (BIA 1987); *Matter of Shaw*, 17 I&N Dec. at 178;
6. Attempts to escape from authorities or other flight to avoid prosecution. *Matter of San Martin*, 15 I&N Dec. 167, 169 (BIA 1974);
7. Prior failures to appear for court proceedings. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of San Martin*, 15 I&N Dec. at 169; and
8. Criminal record, particularly if such record indicates consistent disrespect for the law. *Matter of Andrade*, 19 I&N Dec. at 490-91.

The Court may base a custody or bond determination upon any information that is available or that is presented by the alien or DHS. 8 C.F.R. § 1003.19(d). It is the responsibility of the Court and parties to ensure that the bond record establishes the nature and substance of the information considered. *Matter of Adeniji*, 22 I&N Dec. at 1115.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

As the Respondent's removal proceedings are ongoing and as DHS did not allege that he is subject to mandatory detention, the Court has jurisdiction to consider the Respondent's request that he be released from custody. INA § 236(a), (c). To establish that he should be released, the Respondent must prove to the satisfaction of the Court that he neither poses a danger to the community nor is a risk of flight. *See Matter of Guerra*, 24 I&N Dec. at 40; *see also* 8 C.F.R. §§

1003.19(h)(3), 1236.1(c)(8). Although the Respondent admitted to his aged criminal history and testified to taking measures to rectify his actions, the Respondent failed to provide the Court with his criminal dockets. As such, the Respondent was unable to demonstrate the exact scope of his criminal activity, or meet his burden to prove that he does not pose a danger to the community. Even assuming that the Respondent was able to meet his burden of proof to show that he does not pose a danger the community.

The Court acknowledged the Respondent has been in the United States for over a decade, has a fixed address, and has existing family ties. *Matter of Shaw*, 17 I&N Dec. at 178; *Matter of Patel*, 15 I&N Dec. at 667. However, the Court is troubled by the Respondent's inability to complete his prior probation sentences. A continuance without a finding was entered against the Respondent for the charge of operating under the influence ("OUI") and he was sentenced to probation. The Respondent did not complete probation and defaulted on his sentence. The Respondent was also charged with possession of marijuana, a charge that was later dismissed, and defaulted on the resulting probation sentence. The Respondent did not provide any explanation as to why he did not complete his probation sentences. Accordingly, the Court found that the Respondent's inability to complete probation and his propensity to commit further violations of criminal law was indicative of his risk of dangerousness to persons and property. As the Supreme Court has noted, driving motor vehicles under the influence of alcohol is a highly dangerous activity. *Begay v. United States*, 533 U.S. 137 (2008).

As to risk of flight, the Respondent has not demonstrated that he has a strong case for eligibility for relief from removal. While he has indicated he intends to seek cancellation of removal, he has not presented any evidence from which this Court could determine that he would be statutorily eligible for such relief, in that he has not established that he has been present in the United States for a 10-year period prior to the date of service of his Notice to Appear and subsequent hearing notice.

Thus, upon consideration of the record, the Court ruled that the Respondent did not meet his burden to demonstrate that he neither poses a danger to the community nor is a risk of flight. See *Matter of Guerra*, 24 I&N Dec. at 38. Accordingly, the Court ordered that there be no change in the Respondent's custody status.

May 21, 2019
Date

Gwendolyn E. Trigerman
GWENDOLYN E. TRIGERMAN
United States Immigration Judge

Exhibit T

**Sidra Vitale, Esq.
The Law Office of Sidra Vitale**

P.O. Box 692148
Quincy, MA 02269
(857) 540-1818 (telephone)
(857) 241-3095 (facsimile)

BY OVERNIGHT MAIL

3 May 2019

Clerk's Office
Board of Immigration Appeals
5107 Leesburg Pike Ste 200
Falls Church, VA 22041

RE: Gilberto Pereira Brito

Dear Clerk:

I am counsel for the above individual pursuant to the enclosed E-27 Entry of Appearance. Enclosed please find Mr. Pereira Brito's E-26 Notice of Appeal, copy of the decision of the immigration judge, and fee.

Sincerely yours,



Sidra Vitale, Esq.

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB#1125-0005

Notice of Entry of Appearance as Attorney or
Representative Before the Board of Immigration Appeals

(Type or Print) NAME AND ADDRESS OF REPRESENTED PARTY			ALIEN ("A") NUMBER (Provide A-number of the party represented or the visa beneficiary in this case.) [Redacted]
PEREIRA BRITO	GILBERTO		USCIS Visa Appeal (Provide beneficiary name)
(First)	(Middle Initial)	(Last)	Fines (Provide fine number)
ICE CUSTODY/PCCF 28 LONG ROAD			Disciplinary case (Provide docket number)
(Number and Street)		(Apt. No.)	
PLYMOUTH	MA	02360	
(City)	(State)	(Zip Code)	

Attorney or Representative (please check one of the following):

I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following state(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary) and I am not subject to any order disbarring, suspending, censuring, restraining or otherwise restricting me in the practice of law in any jurisdiction (if subject to such an order, do not check this box and explain on reverse).

Full Name of Court: Mass Supreme Judicial Court Bar Number (If applicable): 668675
 I am a representative accredited to appear before the Executive Office for Immigration Review as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:

I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).
 I am a reputable individual as defined in 8 C.F.R. § 1292.1(a)(3).
 I am an accredited foreign government official, as defined in 8 C.F.R. § 1291.1(a)(5), from: _____ (country).
 I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).

Attorney or Representative (please check one of the following):

I hereby enter my appearance as attorney or representative for, and at the request of, the party named above.
 EOIR has elected the provision of a Qualified Representative for the party named above and I appear in that capacity.
I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representations before the Board of Immigration Appeals. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE**EOIR ID NUMBER****DATE**

 OA896818 05/03/2019

NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & EMAIL ADDRESS

Name: **Sidra Vitale**
 (First) (Middle Initial) (Last)
 Address: **P.O. BOX 682148**
 (Number and Street)
QUINCY **MA** **02260**
 (City) (State) (Zip Code)
 Telephone: **857-540-1818** Facsimile: **857-241-3095** Email: **SVITALE@VITALE-LAW.COM**

 Check here if new address

Indicate Type of Appearance:

Primary Attorney/Representative Non-Primary Attorney/Representative

I am providing pro bono representation. Check one: yes no

Proof of Service

I (Name) SIDRA VITALE, ESQ.

mailed or delivered a copy of this Form EOIR-27 on (Date) 05/04/2019
 to the DHS (U.S. Immigration and Customs Enforcement – ICE) at 15 NEW SUDBURY ST 425, BOSTON, MA 02203
 DHS (U.S. Citizenship and Immigration Services – USCIS) at _____
 EOIR Disciplinary Counsel at _____


 Signature of Person Serving

APPEARANCES - An appearance for each represented party shall be filed on a separate Form EOIR-27 by the attorney or representative appearing in each appeal or motion to reopen or motion to reconsider before the Board of Immigration Appeals (see 8 C.F.R. § 1003.30(g)), even though the attorney or representative may have appeared in the case before the Immigration Judge or the U.S. Citizenship and Immigration Services. If information is omitted from the Form EOIR-27 or it is not properly completed, the appearance may not be recognized and the accompanying filing may be rejected. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions in 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon approval by the Board of a request of the attorney or representative of record in accordance with *Matter of Rosario*, 19 I&N Dec. 635 (1989). Please note that appearances for limited purposes are not permitted. See *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). Attorneys and Accredited Representatives (with full accreditation) must first update their address in allegany before filing a Form EOIR-27 that reflects a new address.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see *How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review*, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. § 1362 and 8 C.F.R. § 1008.3 in order to enter an appearance to represent a party before the Board of Immigration Appeals. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successor and EOIR-003, Practitioner Complaint-Disciplinary File, 64 Fed. Reg. 49237 (September 1999).

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (301) 298-7180 or (240) 314-1500.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

OMB# 1125-0002
Notice of Appeal from a Decision of an
Immigration Judge

1. List Name(s) and "A" Number(s) of all Respondent(s)/Applicant(s):
Gilberto Pereira Brito [REDACTED]

Stamp/Check or Mailing Order Here. Include Name(s) and
"A" Number(s) on the face of the check or mailing order.

For Official Use Only

! **WARNING:** Names and "A" Numbers of everyone appealing the
Immigration Judge's decision must be written in item #1. The names and
"A" numbers listed will be the only ones considered to be the subjects of
the appeal.

2. I am the Respondent/Applicant DHS-ICE (*Mark only one box.*)

3. I am DETAINED NOT DETAINED (*Mark only one box.*)

4. My last hearing was at Boston, MA (Location, City, State)

5. What decision are you appealing?

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated _____.

I am filing an appeal from the Immigration Judge's decision *in bond proceedings* dated 04/04/2019. (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? Yes. No.)

I am filing an appeal from the Immigration Judge's decision *denying a motion to reopen or a motion to reconsider* dated _____.

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

Form EOIR-26
Revised Oct. 2016

6. State in detail the reason(s) for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and "A" number(s) on every sheet.

A default warrant issued over 10 years ago, cannot, without more, constitute sufficient evidence of flight risk or danger to the community to warrant denial of bond.

** please see attachment and forthcoming brief **

(Attach additional sheets if necessary)

! **WARNING:** You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? Yes No

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? Yes No

! **WARNING:** If you mark "Yes" in item #7, you should also include in your statement above why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

If you mark "Yes" in item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule..

9.



Signature of Person Appealing
(or attorney or representative)

05/03/2019

Date

Form EOIR-26
Revised Oct. 2016

10.

Mailing Address of Respondent(s)/Applicant(s)	
GILBERTO PEREIRA BRITO	
(Name)	
PCCF, 26 LONG POND ROAD	
(Street Address)	
(Apartment or Room Number)	
PLYMOUTH, MA 02360	
(City, State, Zip Code)	
508-830-6200	
(Telephone Number)	

11.

Mailing Address of Attorney or Representative for the Respondent(s)/Applicant(s)	
SIDRA VITALE, ESQ.	
(Name)	
PO BOX 692148	
(Street Address)	
(Suite or Room Number)	
QUINCY, MA 02269	
(City, State, Zip Code)	
857-540-1818	
(Telephone Number)	

NOTE: You must notify the Board within five (5) working days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

NOTE: If an attorney or representative signs this appeal for you, he or she must file with this appeal, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12.

PROOF OF SERVICE (You Must Complete This)

I	SIDRA VITALE, ESQ	mailed or delivered a copy of this Notice of Appeal
	(Name)	
on	05/04/2019	to DHS OFFICE OF CHIEF COUNSEL
	(Date)	(Opposing Party)
at	JFK FED BLDG, 15 NEW SUDSBURY ST RM 425, BOSTON, MA 02203	
	(Number and Street, City, State, Zip Code)	



X

Signature

NOTE: If you are the Respondent or Applicant, the "Opposing Party" is the Assistant Chief Counsel of DHS - ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed.

WARNING: If you do not attach the fee or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- Read all of the General Instructions
- Provided all of the requested information
- Completed this form in English
- Provided a certified English translation for all non-English attachments
- Signed the form

- Served a copy of this form and all attachments on the opposing party
- Completed and signed the Proof of Service
- Attached the required fee or Fee Waiver Request
- If represented by attorney or representative, attach a completed and signed EOIR-27

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
BOSTON, MA

FILE: [REDACTED]

IN THE MATTER OF:

PEREIRA-BRITO, GILBERTO

RESPONDENT

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE
WITH RESPECT TO CUSTODY

Request having been made for a change in the custody status of respondent pursuant to 8 CFR 236.1(c), and full consideration having been given to the representations of the Department of Homeland Security and the respondent, it is hereby

ORDERED that the request for a change in custody status be denied.

ORDERED that the request be granted and that respondent be:

released from custody on his own recognizance

released from custody under bond of \$ _____

OTHER *Detainee* _____

Copy of this decision has been served on the respondent and the Department of Homeland Security.

APPEAL: waived — *reserved*

BOSTON — BOSTON DETAINED

Date: *7/1/19*

Wendy
GWENDYLAN E. TREGERMAN
Immigration Judge

XS

Gilberto Pereira Brito, [REDACTED]
Continuation page, E-26 Notice of Appeal

Question 6, Reason(s) for this Appeal:

There is Scant Evidence, Insufficient to Meet Burden to Show Flight Risk

A default warrant issued over 10 years ago, cannot, without more, constitute sufficient evidence of flight risk or danger to the community to warrant denial of bond. The government should be required to bear the burden of proving that Respondent is a danger or flight risk, and that no condition or combination of conditions would mitigate the dangerousness or risk of flight. See *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 694 (D. Mass. 2018); *Martinez v. Decker*, C.A. No. 18-6527, 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018). The Fifth Amendment's Due Process clause mandates: “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. Freedom from imprisonment, i.e. government custody, detention, or other forms of physical restraint, “lies at the heart of the liberty [the Due Process] Clause protects.” *Zadyvdas v. Davis*, 533 U.S. 678, 690 (2001). Therefore, in actions to deprive a person of his or her liberty, “the party who seeks the law’s intervention is the party who bears the burden of proof.” Mary Holper, *The Best of Burden in Immigration Bond Hearings*, 67 Case W. Res. L. Rev. 75, 112 (2016).

This is especially true in the context of detention pending deportation, where it is the government who seeks to upset the legal status quo and restrain the liberty of a noncitizen, “who otherwise has the right to freely live in this country,” as their removability has not been determined. *Id.* at 117. Thus, requiring Respondent to prove he “is not dangerous and not a flight risk at a bond hearing violates the Due Process Clause.” *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018).

In addition, immigration detention hearings are civil proceedings and not considered punitive. See *Harisiades v. Shaughnessy*, 342 U.S. 580, 594 (1952) (“Deportation, however severe its consequences, has been consistently classified as a civil rather than a criminal procedure.”). Pursuant

to 8 C.F.R. § 241.4(d)(1), the standard for continued detention in immigration proceedings the same as for pre-trial detention—whether the alien will constitute a danger to the community or is a flight risk. In these hearings, dangerousness or flight risk must be shown by clear and convincing evidence, and the preponderance of the evidence standard is insufficient to comport with Due Process. David Cole, *In Aid of Removal: Due Process Limits on Immigration Detention*, 51 Emory L.J. 1003, 1011-21 (2002) (exploring due process limitations on detention). It is improper to ask “the individual . . . to share equally with society the risk of error when the possible injury to the individual is significantly greater than any possible harm to the state.” *Addington v. Texas*, 441 U.S. 418, 427 (1979). The government must “impress the factfinder with the importance of the decision and thereby perhaps reduce the chances that inappropriate commitments will be ordered.” *Id.* Therefore, civil detention is forbidden unless the government has proved an adequate basis for detention to a neutral arbiter by clear and convincing evidence. U.S. Const., Amend. IV & V; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

Therefore, Respondent cannot be detained unless the government articulates a statutory basis for detention and then proves by clear and convincing evidence: (1) the predicate facts necessary to trigger the identified statutory basis for detention; (2) that Respondent is a danger to others or a flight risk; and (3) that no condition or combination of conditions will reasonably assure his future appearance and the safety of the community. The burden is theirs because, “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

In this case, default warrant(s) issued over a decade ago are simply insufficient to demonstrate that Respondent is a flight risk today, especially when viewed in conjunction with his deep roots in the community, his role as primary breadwinner for his family, comprised of his disabled U.S. citizen wife, who does not work, and their three U.S. citizen children, ages 10, 4, and under 1 year old, as detailed in the evidence submitted in support of Respondent's bond request.

Ability to Pay

Additionally, failure to consider a detainee's financial circumstances could create a significant risk that the individual would be "needlessly deprived of the fundamental right to liberty." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). The Immigration Judge (IJ) Benchbook lists ability to pay as a factor that should be considered in bond hearings, and "according to the government, consideration of financial circumstances is already 'implicitly' required." *Hernandez*, 872 F.3d at 994. The purpose of conditioning release on the posting of a bond is to incentivize detainees to appear in the future, so it is reasonable to consider financial circumstances. *Id.* at 991, 997 (determining it was appropriate to uphold an injunction requiring government to consider financial ability to pay bond). An IJ's failure to consider ability to pay and subsequent imposition of a bond outside of the detainee's reach is essentially a denial of bond. *Abdi v. Nielsen*, 287 F.Supp.3d 327, 338 (W.D.N.Y. 2018). Therefore, IJs should consider ability to pay and alternative conditions of release. *Abdi*, 287 F.Supp.3d at 334, 338.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

IN THE MATTER OF _____)

PEREIRA BRITO, Gilberto)
Respondent _____)
IN REMOVAL PROCEEDINGS

CERTIFICATE OF SERVICE

I, Sidra Vitale, Esq., certify that I have served a copy of this

Notice of Appeal and initial supporting documents;

on

DHS, Chief Counsel
JFK Federal Bldg
15 New Sudbury St Rm 425
Boston, MA 02203

by mail delivery, on the 4th day of May, 2019.



Sidra Vitale, Esq.
Law Office of Sidra Vitale
P.O. Box 692148
Quincy, MA 02269
svitale@vitale-law.com
(857) 540-1818
(857) 241-3095 (fax)

Exhibit U

Exhibit Intentionally Excluded

Exhibit V

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
BOSTON, MASSACHUSETTS

IN THE MATTER OF _____
PEREIRA BRITO, Gilberto _____
Respondent _____

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Counsel's Motion for Bond Redetermination, it is hereby ordered that the motion be

GRANTED DENIED because:

DHS does not oppose the motion.
 The respondent does not oppose the motion.
 A response to the motion has not been filed with the court.
 Good cause has been established for the motion.
 The court agrees with the reasons stated in the opposition to the motion.
 The motion is untimely per _____.

Other: The court finds the respondent did not overcome his risk of flight due to several deferrals the court finds significant. The court finds that the respondent's circumstances have not changed materially since the last hearing held on 4-4-19. See 8 CFR 1003.19(c)

Deadlines:

The application(s) for relief must be filed by _____
 The respondent must comply with DHS biometrics instructions by _____

6-10-19
DATE


Jennifer McCarthy
Immigration Judge
Jennifer McCarthy

CERTIFICATE OF SERVICE

This document was served by: Mail Personal Service
To: Alien Alien c/o Custodial Officer Alien's Atty/Rep DHS

Date: 07/11/19 By: Court Staff JD

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2019, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Susan M. Finegan

Susan M. Finegan